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CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES

12 SEP 12 PM 1:39

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9 UNITED STATES DISTRICT COURT
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

11 GABRIELLE LOTH,
12 Plaintiff,

13 vs.

14 R.M. GALICIA, INC. d.b.a.
15 PROGRESSIVE MANAGEMENT
16 SYSTEMS,
17 Defendant.

Case No.

CV12-07843 E

COMPLAINT

18
19 COMES NOW PLAINTIFF GABRIELLE LOTH and respectfully submits
20 her complaint as follows:

21 **JURISDICTION**

22 1. This is an action under the Fair Debt Collection Practices Act,
23 (hereinafter "FDCPA"), 15 U.S.C. § 1692a *et seq.*, which prohibits debt collectors
24 from engaging in abusive, deceptive, and unfair practices. Jurisdiction in this case
25 arises under 28 U.S.C. § 1331 and is founded upon 15 U.S.C. § 1692k which
26 grants the United States District Courts jurisdiction to hear this action without
27 regard to the amount in controversy. Supplemental jurisdiction exists for the state
28 law claim under 28 U.S.C. § 1367.

THE PARTIES

2. Plaintiff Gabrielle Loth (hereinafter “plaintiff”), a natural person and adult, is a consumer as defined by the FDCPA, 15 U.S.C. § 1692a (3).

3. Upon information and belief, Defendant R.M. GALICIA, INC. d.b.a. PROGRESSIVE MANAGEMENT SYSTEMS (hereafter “defendant”), a corporation organized under the laws of the State of California, is and was, at relevant times herein, engaged in the business of collecting debts within the above-captioned judicial district with its principal place of business located in the State of California.

4. Upon information and belief, defendant is a debt collector as defined under by the FDCPA, 15 U.S.C. § 1692a (6), because, upon information and belief, defendant collect, or attempt to collect, debts incurred, or alleged to have been incurred, for personal, family, or household purposes using the U.S. Mail, telephone and internet.

FACTUAL ALLEGATIONS

5. On or about May 7, 2011, plaintiff received written correspondence from defendant, dated May 3, 2011, alleging that plaintiff owed a debt (hereinafter “alleged debt”) and demanding that plaintiff pay the alleged debt.

6. On or about June 2, 2011, plaintiff provided notification to defendant by and through written correspondence, dated June 2, 2011, that plaintiff disputed the alleged debt in its entirety. Upon information and belief, defendant received said correspondence (hereinafter “plaintiff’s written dispute”) on or about June 4, 2011 as noted in United States Postal Service records.

7. Despite defendant’s receipt of plaintiff’s written dispute on or about June 4, 2011, defendant placed negative reports concerning the alleged debt on at least one of plaintiff’s national consumer credit reports each and every month, from July of 2011 through May of 2012 without noting that the alleged debt was disputed by plaintiff.

1 8. As a result of the acts alleged above, plaintiff suffered anxiety,
2 embarrassment, humiliation, anger and frustration.

3 **FIRST CLAIM FOR RELIEF**

4 (For FDCPA Violations)

5 9. Plaintiff repeats and realleges and incorporates by reference
6 paragraphs 1-8 above.

7 10. Defendant violated the FDCPA. Defendant's violations include, but
8 are not limited to, violating 15 U.S.C § 1692e(8) of the FDCPA by engaging in
9 false and misleading representations in connection with the collection of an alleged
10 debt by failing to report on plaintiff's credit reports that plaintiff disputed the
11 alleged debt, despite having previously received plaintiff's written dispute.

12 **SECOND CLAIM FOR RELIEF**

13 (Violations of the Rosenthal Act)

14 11. Plaintiff repeats and realleges and incorporates by reference
15 paragraphs 1-10 above.

16 12. Defendant knowingly and willingly violated California's Rosenthal
17 Fair Debt Collection Practices Act (hereinafter "The Rosenthal Act"), California
18 Civil Code §1788 et seq. Defendant violated the Rosenthal Act by violating 15
19 U.S.C § 1692e(8) of the FDCPA) as prohibited by California Civil Code §1788.17
20 by engaging in false and misleading representations in connection with the
21 collection of an alleged debt by failing to report on plaintiff's credit reports that
22 plaintiff disputed the alleged debt, despite having previous written notice of the
23 dispute.

24 **PRAYER FOR RELIEF**

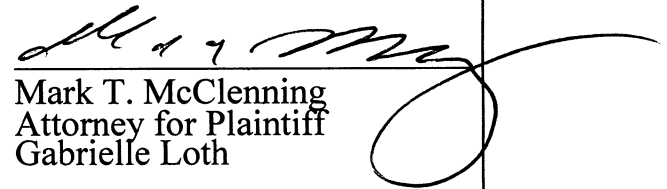
25 WHEREFORE, plaintiff respectfully prays that judgment be entered in
26 plaintiff's favor and against defendant for the following:

27 A. Actual damages pursuant to 15 U.S.C. § 1692k;

28 //

- 1 B. Statutory damages pursuant to 15 U.S.C. § 1692k and/or California
2 Civil Code § 1788.30(b);
3 C. Costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k
4 and/or California Civil Code § 1788.30(c); and
5 D. For such other and further relief as may be just and proper.
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7 DATED: August 30, 2012
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Mark T. McClenning
Attorney for Plaintiff
Gabrielle Loth

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 Attorney for plaintiff Gabrielle Loth

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

GABRIELLE LOTH,

PLAINTIFF(S)

v.

R.M. GALICIA, INC. d.b.a.
 PROGRESSIVE MANAGEMENT
 SYSTEMS,

DEFENDANT(S).

CASE NUMBER

CV12-07843 E

SUMMONS

TO: DEFENDANT(S):

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☐ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Mark T. McClenning, Esq., whose address is 602 13th Street NW, Mandan, ND 58554. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

SEP 12 2012

Dated: _____

Clerk, U.S. District Court

By: JULIE PRADO
 Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) GABRIELLE LOTH		DEFENDANTS R.M. GALICIA, INC. d.b.a. PROGRESSIVE MANAGEMENT SYSTEMS																			
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Mark T. McClenning, Attorney at Law, CA SBN 206177 602 13th Street NW, Mandan, ND 58554 (701) 214-5736 / McClenningLaw@gmail.com		Attorneys (If Known)																			
II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)		III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table border="1" style="width:100%"><tr><td>Citizen of This State</td><td>PTF <input type="checkbox"/> 1</td><td>DEF <input type="checkbox"/> 1</td><td>Incorporated or Principal Place of Business in this State</td><td>PTF <input type="checkbox"/> 4</td><td>DEF <input type="checkbox"/></td></tr><tr><td>Citizen of Another State</td><td><input type="checkbox"/> 2</td><td><input type="checkbox"/> 2</td><td>Incorporated and Principal Place of Business in Another State</td><td><input type="checkbox"/> 5</td><td><input type="checkbox"/></td></tr><tr><td>Citizen or Subject of a Foreign Country</td><td><input type="checkbox"/> 3</td><td><input type="checkbox"/> 3</td><td>Foreign Nation</td><td><input type="checkbox"/> 6</td><td><input type="checkbox"/></td></tr></table>		Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/>	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/>	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/>
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Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/>																
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/>																
IV. ORIGIN (Place an X in one box only.) <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge																					
V. REQUESTED IN COMPLAINT: JURY DEMAND: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Check 'Yes' only if demanded in complaint.) CLASS ACTION under F.R.C.P. 23: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No MONEY DEMANDED IN COMPLAINT: \$																					
VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) Fair Debt Collection Practices Act, ("FDCPA"), 15 U.S.C. § 1692a et seq., which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices																					
VII. NATURE OF SUIT (Place an X in one box only.)																					
OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standard Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609																

CV12-07843

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:(Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involvedX. SIGNATURE OF ATTORNEY (OR PRO PER):  Date August 30, 2012**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))